

BOARD OF APPEALS CASE NO. 4839

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BEFORE THE

APPLICANT: James N. Moran

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ZONING HEARING EXAMINER

**REQUEST: Variance to construct an
accessory structure more than 50% larger
and higher than the principal structure;
604 Powder Mill Drive, Fallston**

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OF HARFORD COUNTY

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Hearing Advertised

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Aegis: 8/12/98 & 8/19/98

HEARING DATE: October 28, 1998

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Record: 8/14/98 & 8/21/98

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ZONING HEARING EXAMINER'S DECISION

The Applicant, James N. Moran, appeared before the Hearing Examiner requesting a variance to Section 267-26(C)(1) of the Harford County Code, to construct an accessory building greater than 50% of the habitable space of the principal structure and a variance to allow the structure to exceed the height of the principal structure.

The subject parcel is located at 604 Powder Mill Drive in the Third Election District. The parcel is identified as Parcel No. 656, in Grid 1-A, on Tax Map 55. The parcel contains .757 acres, more or less, and is zoned RR, Rural Residential.

Mr. James Moran appeared and testified that he is the owner of the subject parcel. The witness said that he is requesting a variance to construct an accessory building with dimensions of 52 feet by 40 feet. The witness said that he would like to store a motor home, farm tractor, and a boat in the structure. Mr. Moran said that he will not store commercial vehicles on the property and the property slopes from north to south and east to west and that the parcel contains a 30 foot slope which he estimates to be about a 12%. The witness said that the proposed structure will be screened by topography and some existing evergreens and he felt that approval of the variance will not be substantially detrimental to adjacent properties or materially impair the purpose of the Code. The witness said that he felt approval of the variance would allow him to store equipment in an enclosed building rather than in view of his neighbors. Mr. Moran also testified that he owned the adjoining parcel which would be most impacted by the requested accessory building.

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Mr. Dwayne W. Johnson, 601 Powder Mill Drive, appeared and cross-examined the Applicant, but did not testify in opposition to the request.

The Staff Report of the Department of Planning and Zoning did not make a recommendation but provides:

“The subject parcel is a rectangular lot which shares a common driveway with three other lots. The location of the proposed garage is screened by pine trees from the adjacent dwellings. The lot slopes sharply from the road, levels out at the house and in the area of the proposed garage, and slopes up again to the rear. The dwelling is a one-story, ranch-style home; however, other homes in the area range from split levels to large two-story colonials with attached garages. The lot to the north of the subject property is currently unimproved.”

CONCLUSION:

The Applicant is requesting variance to Section 267-26(C)(1) of the Harford County Code to construct an accessory building greater than 50% of the habitable space of the principal structure and exceeding the height of the principal structure.

Section 267-26(C)(1) provides:

“Use limitations. In addition to the other requirements of this Part 1, an accessory use shall not be permitted unless it strictly complies with the following:

- (1) In the AG, RR, R1, R2, R3, R4 and VR Districts, the accessory use or structure shall neither exceed fifty percent (50%) of the square footage of the habitable space of the principal use or structure. This does not apply to agricultural structures, nor does it affect the provisions of Section 267-24, Exceptions and Modifications to Minimum Height Requirements. No accessory structure shall be used for living quarters, the storage of contractors' equipment nor the conducting of any business unless otherwise provided in this Part 1.”

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The uncontradicted testimony of the Applicant was that there are unique topographic conditions which exist on the parcel. The Applicant's testimony was corroborated by the Staff Report and photographs attached to the Staff Report. The Applicant, further, testified that he did not feel the variance would be substantially detrimental to adjacent properties or materially impair the purpose of the Code because none of his neighbors testified in opposition to the request and, further, that he felt that approval of the variance would benefit the neighborhood because he would be able to keep his tractor, boat and motor home within an enclosed building rather than stored in view of his neighbors.

It is the finding of the Hearing Examiner that unique topographic conditions exist on the subject parcel and that approval of the variance would not be substantial detrimental to the Code or adjacent properties. The variance shall be subject to the following conditions:

1. The Applicant shall obtain all necessary permits and inspections for the construction of the garage.
2. The garage shall not be used for the storage of contractors vehicles and/or contractors' equipment.
3. The garage shall not be used as living quarters or in the furtherance of any business operation.

Date **NOVEMBER 30, 1998**

L. A. Hinderhofer
Zoning Hearing Examiner